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December 4, 2008

DEPARTMENT OF ENERGY  
OFFICE OF HEARINGS AND APPEALS

Hearing Officer's Decision

Name of Case: Personnel Security Hearing

Date of Filing: July 30, 2008

Case Number: TSO-0657

This decision concerns the eligibility of XXXXXXXXXXXX ("the Individual") for a DOE access authorization.<sup>1</sup> This Decision will consider whether, based on the testimony and other evidence presented in this proceeding, the Individual's request for an access authorization should be granted. For the reasons detailed below, it is my decision that the Individual's request for an access authorization should not be granted at this time.

**I. BACKGROUND**

This administrative review proceeding began with the issuance of a notification letter by a Department of Energy (DOE) local security office (LSO), informing the Individual that information in the possession of the DOE created a substantial doubt pertaining to her eligibility for an access authorization.<sup>2</sup> See Notification Letter, June 12, 2008.

The Notification Letter cites the Individual's false or incomplete responses on multiple security questionnaires regarding her history of illegal drug use as security concerns under 10 C.F.R. § 710.8(f) (Criterion F).<sup>3</sup> The Individual submitted Questionnaires for National Security Positions (QNSP) in January 1999, June 2005, and February 2007. On the January 1999 and June 2005 QNSPs, the Individual responded that she had not used any illegal drugs within the past seven years. DOE Exs. 13, 14. On the February 2007 QNSP, the Individual stated that she used ecstasy, cocaine, and methamphetamines "periodically" from August 2005 to January 2006. DOE Ex. 12. During a personnel security interview (PSI) in October 2007, the Individual disclosed a much more extensive history of illegal drug use. According to the Notification Letter, during the PSI, the Individual "admitted that she used marijuana between 1986 and 2005,

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<sup>1</sup> Decisions issued by the Office of Hearings and Appeals (OHA) are available on the OHA website located at <http://www.oha.doe.gov>. The text of a cited decision may be accessed by entering the case number of the decision in the search engine located at <http://www.oha.doe.gov/search.htm>.

<sup>2</sup> Access authorization, also known as a security clearance, is an administrative determination that an individual is eligible for access to classified matter or special nuclear material. 10 C.F.R. § 710.5.

<sup>3</sup> Criterion F pertains to false statements or misrepresentations by an individual during the course of an official inquiry regarding the individual's eligibility for access authorization, including responses during personnel security interviews or on security questionnaires. Such statements raise serious doubts regarding the individual's honesty, reliability, and trustworthiness. See 10 C.F.R. § 710.8(f).

cocaine between March 2005 and August 2006, ecstasy between 2000 and September 2005, and methamphetamine between February 2005 and January 2006, and also used Valium in May 2001 and Amoxicillin in October 2005 that were not prescribed to her.” Notification Letter at 1.

The Notification Letter also cites the Individual’s history of illegal drug use as described above as a security concern under 10 C.F.R. § 710.8(h) and (k) (Criteria H and K, respectively).<sup>4</sup> In addition to the drug use itself, the LSO relied on the diagnosis of a DOE consultant-psychiatrist (the DOE psychiatrist) that the Individual met the criteria for methamphetamine abuse, in remission, and past history of polysubstance abuse. DOE Ex. 7 at 13, 16. In a March 2008 report, following his evaluation of the Individual, the DOE psychiatrist determined that although the Individual’s substance abuse was in remission, she did not exhibit adequate evidence of rehabilitation or reformation. *Id.* at 17. The psychiatrist stated that the Individual’s substance abuse was “a significant clinical problem” and she “never entered into a voluntary treatment for substance abuse and feels no need to do so. Her vulnerability to relapse would be particularly high in a time of relationship problems or breakups.” *Id.* The psychiatrist recommended that the Individual undergo a treatment program for drug abuse for a period of one year.

The Notification Letter further cites the Individual’s alcohol use as a security concern under 10 C.F.R. § 710.8(h) and (j).<sup>5</sup> According to the Notification Letter, the DOE psychiatrist determined that the Individual met the criteria for alcohol abuse. The DOE psychiatrist found that the Individual’s alcohol abuse was her “primary clinical problem” at the time of the evaluation. *Id.* at 12. The psychiatrist determined that the Individual did not demonstrate adequate evidence of rehabilitation because she continued to drink, often to excess, never entered into voluntary treatment for alcohol abuse, and felt no need to seek such treatment. *Id.* at 16. The psychiatrist recommended that the Individual enter an alcohol treatment program, which included abstinence from alcohol, for a period of one year in order to establish adequate evidence of rehabilitation and reformation. *Id.* at 16.

The Notification Letter also notes that the DOE psychiatrist diagnosed the Individual with Attention Deficit Hyperactivity Disorder (ADHD). The psychiatrist did not find that the ADHD itself was an illness significantly affecting the Individual’s judgment or reliability. However, the ADHD “worsens the prognosis for [the Individual’s] alcohol and drug abuse disorders.” *Id.* at 17.

Finally, the Notification Letter also cited security concerns under 10 C.F.R. § 710.8(l) (Criterion L).<sup>6</sup> As a basis for the Criterion L concern, the letter cites, *inter alia*, the Individual’s use of drugs while employed by a DOE facility, despite her awareness of the facility’s policy against

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<sup>4</sup> Criterion H concerns information that a person has “an illness or mental condition of a nature which, in the opinion of a board-certified psychiatrist, other licensed physician or a licensed clinical psychologist causes, or may cause, a significant defect in judgment or reliability.” 10 C.F.R. § 710.8(h). Criterion K pertains to information indicating that an individual has “trafficked in, sold, transferred, possessed, used, or experimented with” illegal substances. 10 C.F.R. § 710.8(k).

<sup>5</sup> Criterion J relates to conduct indicating that the Individual has “been, or is, a user of alcohol habitually to excess, or has been diagnosed by a psychiatrist or a licensed clinical psychologist as alcohol dependent or as suffering from alcohol abuse.” 10 C.F.R. § 710.8(j).

<sup>6</sup> Criterion L concerns refer to conduct tending to show that the Individual is “not honest, reliable, or trustworthy, or which furnishes reason to believe that the individual may be subject to pressure, coercion, exploitation, or duress which may cause the individual to act contrary to the best interests of the national security.” 10 C.F.R. § 710.8(l).

drug use; the Individual's use of illegal drugs after completing QNSPs in 1999 and 2005; and, the Individual's falsification of her QNSPs, despite signing security forms acknowledging that falsifying the forms could result in the loss of her security clearance.

Upon receipt of the Notification Letter, the Individual requested a hearing in this matter. *See* Individual's Letter, July 17, 2008. At the hearing, the Individual presented her own testimony, as well as the testimony of two friends, a supervisor, and a counselor. The DOE counsel presented the testimony of one witness, the DOE psychiatrist.

## **II. HEARING TESTIMONY**

### **A. The Individual**

The Individual testified regarding the security concerns cited in the Notification Letter. According to the Individual, she completed her 1999 QNSP when she applied for a summer internship position. Transcript ("Tr.") at 77. At the time, her only drug use was "limited LSD use" the previous summer. She stated that she did not believe that the experimental drug use "defined [her] as a drug user" and she feared that disclosing the drug use would jeopardize her ability to secure the internship position. *Id.* The Individual stated that she completed her 2005 QNSP at "the peak" of her drug use. Tr. at 81. The Individual did not know why she falsified her 2005 QNSP. She stated, "I wasn't being rational at all. I don't think I was thinking clearly about anything." *Id.* The Individual stated that she "definitely needed help" at that time and did not want to acknowledge her drug problem. Tr. at 82-83. The Individual decided she needed to be honest on her 2007 QNSP, but her drug history seemed so extensive that she did not know how to disclose it. Tr. at 85. She stated that she decided to "mention a few [instances of drug use] and see what happens." *Id.* The Individual stated that it took answering the interviewer's questions during the PSI, one step at a time, for her to be able to accurately quantify every instance of illegal drug use. Tr. at 85. The Individual understood the seriousness of having falsified her QNSPs. She stated, "I understand that my actions and lack of judgment are of huge concern, and I hugely regret having [falsified the QNSPs]." Tr. at 91.

The Individual did not deny her extensive history of illegal drug use as cited in the Notification Letter. Tr. at 100. She stated that her drug use prior to 2005 "was [part of] a very social party scene, it was experimental." Tr. at 66. Her drug use escalated in 2005. The Individual stated, "I became involved in an extremely abusive relationship, which ... was [the] main catalyst in this huge downfall for me, which led to the destructive behavior and the self-medicating, the drug abuse." Tr. at 66-67. The Individual stated that she turned to drugs after leaving the abusive relationship because she "needed to get rid of the hurt." Tr. at 68-69. According to the Individual, the last time she used any illegal drugs was in July 2006. Tr. at 71. She did not receive any treatment for drug abuse. Tr. at 100. She stated, "it's been mostly my own treatment, my own diligence of ... staying away from the situations, and the people who are around, you know, the temptation." *Id.*

The Individual no longer associates with anyone who uses drugs. Tr. at 109. She further stated that she did not believe she would ever turn to drugs again to cope with difficult situations. Tr. at 109. She stated that she has experienced stress in the past year, including the death of a friend, and she was not tempted to use drugs. *Id.* While some of the Individual's friends are aware that she experimented with some illegal drugs when she was younger, none of them is aware of the

Individual's extensive use of illegal drugs between 2005 and 2006. Tr. at 95. The Individual stated that she became withdrawn during that period and did not let her friends know what was going on. Tr. at 81, 95. Nonetheless, the Individual stated that she cannot be blackmailed with information regarding her drug use. She stated that she was willing to disclose her past drug use to her friends and co-workers if necessary. Tr. at 97. Also, if anyone ever attempted to blackmail her using that information, she would immediately report it to the LSO. Tr. at 98.

The Individual acknowledged that she abused alcohol in the past, but did not believe that she currently has an alcohol problem. Tr. at 131. The Individual has not sought out treatment for alcohol abuse and does not believe she needs such treatment. Tr. at 103-104, 107. The Individual has steadily reduced her alcohol consumption and now only drinks in social settings, about once a week. Tr. at 122-23. The Individual stated that when she abused alcohol, "it was emotionally motivated. Anytime I had something stressful come up, my instinct was to grab a drink." Tr. at 132. In her opinion, alcohol replaced drugs as a coping mechanism. *Id.* The Individual believes that she has overcome her alcohol problem on her own by reducing her alcohol consumption. Tr. at 132. The Individual stated that when she drinks now, "it's not self-medicating. I'm not emotional when I do it, and I'm not emotional after I do it." Tr. at 72. The Individual stated that none of her friends are heavy drinkers; they drink in social settings. Tr. at 133. She further stated that she and her friends often socialize in settings where no alcohol is present. For example, they exercise, go hiking, go to movies, ride their bikes, and walk their dogs. Tr. at 134.

The Individual stated that she "definitely self-destructed" in January 2007 after the end of another relationship. Tr. at 142. However, she believes she has turned her life around. She stated, "I've had a lot of emotional support from a lot of my friends, and I've been going to work. I've tried to make a lot of positive changes for myself." Tr. at 71-72.

## **B. The Individual's Friends**

Two of the Individual's friends testified at the hearing. Friend 1 met the Individual through work in 2002, and they became "pretty good friends." Tr. at 27-28. Friend 1 and the Individual worked together for approximately three years, and now socialize in their free time. Tr. at 31. Friend 1 and the Individual socialize together, primarily going out to eat at restaurants. Tr. at 31-32. Friend 1 has seen the Individual drink alcohol on occasion. Tr. at 33. The last time he saw the Individual consume alcohol was a few days prior to the hearing at a birthday party at her home. *Id.* Prior to that party, he last saw the Individual drink alcohol about two months prior to the hearing. Tr. at 37. Friend 1 estimated that he has seen the Individual intoxicated approximately four or five times since he has known her. Tr. at 38. He has seen the Individual drive after having one or two drinks, but he has never seen her drive while impaired. *Id.* Tr. at 45. Friend 1 stated that he has never seen the Individual use illegal drugs. Tr. at 38. He stated, however, that she did tell him about "some past use," but he did not recall the specifics of the conversation. Tr. at 38-39.

Friend 2 has known the Individual for approximately 9 years. Tr. at 50. They met through friends and socialize together about once a month. Tr. at 50-51. Friend 2 has seen the Individual drink alcohol. Tr. at 55. The last time Friend 2 saw the Individual drink was about three months prior to the hearing, when she had "three or four" drinks over the course of an evening. Tr. at 55.

Friend 2 stated that since he has known the Individual, he has seen her drink “maybe 30 percent of the time” during social gatherings. The rest of the time they have socialized without alcohol doing other activities such as shopping, playing board games, and spending time with friends. Tr. at 60. Friend 2 knows the Individual’s friends. Her friends do not use illegal drugs and do not drink alcohol outside of what he “consider[s] normal.” Tr. at 61. Friend 2 is aware of past drug use by the Individual, but he has never seen her use illegal drugs. Tr. at 52. According to Friend 2, the Individual told him that her past drug use was “experimental.” *Id.* The Individual told Friend 2 that she experimented with LSD, ecstasy, and amphetamines. Tr. at 53. Friend 2 stated that the Individual did not describe in detail how long she used those drugs, but he “know[s] it was very ... temporary ... under three months of experimental use” in 2000 or 2001. Tr. at 53-54. Finally, Friend 2 considers the Individual reliable and trustworthy. Tr. at 59. He stated that he has never known her to lie or betray his trust. Tr. at 59, 62.

### **C. The Individual’s Supervisor**

The Individual’s supervisor has known the Individual since March 2007 when he became her supervisor. Tr. at 14. He works closely with the Individual on a daily basis. Tr. at 15. Although they have interacted occasionally outside of work, they do not socialize together. Tr. at 16. The Individual’s supervisor has never seen the Individual drink alcohol or known her to miss work due to having consumed alcohol to excess. Tr. at 17. He also has no knowledge of the Individual using any illegal drugs. *Id.* The Individual’s supervisor has never known the Individual to lie and believes she is trustworthy. Tr. at 19. Finally, the Individual’s supervisor knows generally that the Individual went through a difficult time in her life, but it did not affect her work. Tr. at 21.

### **D. The Individual’s Counselor**

The Individual’s counselor is a psychotherapist and sees many patients for issues related to drug and alcohol abuse. Tr. at 153, 155. The counselor began treating the Individual about three weeks prior to the hearing. Tr. at 155. The counselor and the Individual have been working on several issues. She stated, “[the Individual] has anxiety, overall general anxiety. She has ADHD. We’re working on impulsivity, coping skills, different generalized conditions related to anxiety, relationships.” Tr. at 155.

The counselor is not specifically treating the Individual for alcohol or drug abuse, but they have discussed those issues. Tr. at 156. The counselor stated that the Individual did not report drug abuse as an issue she was concerned about addressing during their sessions. Tr. at 157. The counselor added that she and the Individual have not had enough sessions together to go into the Individual’s history of drug abuse, but they have discussed her alcohol use. Tr. at 158. According to the counselor, the Individual informed her that she drinks, but not on a regular basis. *Id.* The counselor added, “I don’t have enough information to say [whether] she has an alcohol abuse problem.” Tr. at 159. However, the counselor believes that if the Individual is diagnosed with drug or alcohol abuse, then “she needs to remain drug- and alcohol-free.” Tr. at 162.

The counselor has been working with the Individual on addressing her ADHD by working on “coping skills, awareness, [and] relationship issues.” Tr. at 160. She has not suggested medications to treat the Individual’s ADHD because the Individual “seems to be handling [the

ADHD] without adversely affecting her life ... she does have some problems ... [but] not major ones.” Tr. at 160. The counselor agreed with the statement by the DOE psychiatrist in his March 2008 report that, if left untreated, ADHD could worsen a person’s prognosis for drug or alcohol abuse because individuals with ADHD “many times self-medicate with drugs or alcohol.” Tr. at 161.

The counselor believes that the Individual has been “quite candid” during their sessions. Tr. at 164. Going forward, the counselor anticipates meeting with the Individual weekly for at least six months. Tr. at 166. The counselor stated the following regarding the Individual’s prognosis:

It’s all about motivational level. She has the skills, is very, very bright, and she’s motivated at this time. Right now, this is a very good time for her to be working on her problems, because she is motivated. I don’t know two months ago, two years ago, what was going on, but because she is motivated, [her] prognosis is very good.”

Tr. at 167.

#### **E. The DOE Psychiatrist**

After being present throughout the hearing and considering all of the hearing testimony, the DOE psychiatrist did not change the diagnoses or recommendations he presented in his March 2008 report. Tr. at 179. He did note that there was improvement in the Individual’s progress since the March 2008 evaluation. Tr. at 197.

The psychiatrist attributed the Individual’s falsification of her QNSP responses pertaining to her drug use to her drug problem itself. He stated, “there’s an element of denial that comes with a substance abuse disorder.” Tr. at 113. The psychiatrist noted, however, that the Individual’s only areas of dishonesty were related to her drug history. He stated, “the important thing I think as a clinician for honesty issues is if the substance abuse is treated, the source of the lying is treated ... hopefully, if you’re no longer burdened with a substance abuse disorder ... the concerns about honesty would perhaps be mitigated, because other than drugs, there’s no issue [regarding the Individual’s] honesty.” Tr. at 114. Regarding the 1999 QNSP, however, when the Individual’s drug use was more experimental and not during the height of her drug abuse, the psychiatrist stated that the denial was “a small element in the problem ... a lot of it was she was just consciously frightened of what this would do to her job application and, therefore, consciously omitted it because she knew that this would go badly if her prospective employer found out about it.” Tr. at 177.

Regarding the Individual’s drug abuse, the psychiatrist believes that the Individual minimized her drug use in the past, but she is now “acknowledging the history ... about all the problems that she had, maybe minimizing the risk of future relapses or minimizing risks that there might be a problem in the future [when she is] under stress.” Tr. at 176. He noted that he believed the Individual no longer uses illegal drugs. He stated, “she continues to be drug-free ... the devil’s advocate could say we really only know that based on her own word, but [there is] certainly [no evidence of] heavy enough drug use to bring her into problems with the law or functioning problems.” Tr. at 197. Updating the opinion he expressed in his March 2008 report, the psychiatrist testified that he now believes the Individual’s substance abuse is in remission. Tr. at

181. He added that the Individual's prognosis regarding drug use is "pretty good" and her risk of relapse is "low." Tr. at 185, 199.

The psychiatrist found it troubling, however, that the Individual continues to drink alcohol and found that the Individual's diagnosis of alcohol abuse is "still there." Tr. at 181. He stated that he would give her "not a good prognosis" in terms of her alcohol abuse, "mainly because she continues to drink, she's not in any treatment focused on it ... I think she's still very vulnerable to running into alcohol problems if she hits a lot of stress in the future." Tr. at 185. The psychiatrist recommended that, in order to demonstrate adequate evidence of rehabilitation or reformation, the Individual show one year of abstinence from alcohol and seek treatment for alcohol abuse. Tr. at 189. He added that it is possible to show rehabilitation through abstinence only, without seeking treatment, but "the odds of ... success go way up with treatment." Tr. at 195.

As he stated in his March 2008 report, the psychiatrist believes that the Individual's ADHD worsens her overall prognosis because of "the extra impulsivity that ADHD could bring with regard to the binge drinking episodes." Tr. at 182. The psychiatrist believes the Individual needs treatment for her ADHD, but not necessarily medication. Tr. at 184. He added, "oftentimes the treatment can be counseling." Tr. at 184. The psychiatrist also noted that the Individual's ADHD symptoms "seem to be fairly mild." *Id.*

Finally, the psychiatrist accepted the Individual's testimony regarding her drug and alcohol use. He believes the Individual has taken positive steps in addressing the various issues of concern since he evaluated her in March 2008. He stated, "[the Individual] continues to be drug-free ... it does sound like her drinking continues to [be] less and less. It also looks like in general her personal relationships and general maturity level are continuing to improve." Tr. at 197-198. The psychiatrist concluded that "[the Individual's] trajectory is good." Tr. at 199.

### III. STANDARD OF REVIEW

The regulations governing the Individual's eligibility for an access authorization are set forth are 10 C.F.R. Part 710, "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material." An individual is eligible for access authorization if such authorization "would not endanger the common defense and security and would be clearly consistent with the national interest." 10 C.F.R. § 710.7(a). "Any doubt as to an individual's access authorization eligibility shall be resolved in favor of the national security." *Id.* See generally *Dep't of the Navy v. Egan*, 484 U.S. 518, 531 (1988) (the "clearly consistent with the interests of national security" test indicates that "security clearance determinations should err, if they must, on the side of denials").

Under Part 710, the DOE may suspend an individual's access authorization where "information is received that raises a question concerning an individual's continued access authorization eligibility." 10 C.F.R. § 710.10(a). Derogatory information includes, but is not limited to, the information specified in the regulations. 10 C.F.R. § 710.8. Once a security concern is raised, the individual has the burden to bring forward sufficient evidence to resolve the concern.

In considering whether an individual has resolved a security concern, the Hearing Officer considers various factors, including the nature of the conduct at issue, the frequency or recency

of the conduct, the absence or presence of reformation or rehabilitation, and the impact of the foregoing on the relevant security concerns. 10 C.F.R. § 710.7(c). The decision concerning eligibility is a comprehensive, common-sense judgment based on a consideration of all relevant information, favorable and unfavorable. 10 C.F.R. § 710.7(a). In order to reach a favorable decision, the Hearing Officer must find that “the grant or restoration of access authorization to the individual would not endanger the common defense and security and would be clearly consistent with the national interest.” 10 C.F.R. § 710.27(a).

#### IV. ANALYSIS

##### A. Criterion F – Falsification

As stated above, Criterion F concerns involve false statements, misrepresentations or omissions by an individual during the course of an official inquiry regarding the individual’s eligibility for access authorization, including responses during personnel security interviews or on security questionnaires. Such false statements, misrepresentations or omissions raise serious doubts regarding the individual’s honesty, reliability, and trustworthiness. The DOE security program is based on trust, and when a security clearance holder breaches that trust, it is difficult to determine to what extent that individual can be trusted again in the future. *See Revised Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (issued on December 29, 2005 by the Assistant to the President for National Security Affairs, The White House) (the Adjudicative Guidelines), Guideline E, ¶ 15; *see also, e.g., Personnel Security Hearing*, Case No. VSO-0013 (1995); *Personnel Security Hearing*, Case No. VSO-0281 (1999), *aff’d*, Case No. VSA-0281 (2000).

The Notification Letter cites the Individual’s failure to disclose any illegal drug use on her 1999 and 2005 QNSPs, as well as her incomplete responses regarding her drug history on her 2007 QNSP, as a security concern under Criterion F. After considering the record in this case, I am unable to find that the Individual has mitigated the Criterion F concern. The Individual admitted that she intentionally withheld the information regarding her use of illegal drugs on her 1999 QNSP because she was afraid it would affect her ability to obtain a security clearance and, therefore, her ability to secure a job. In addition, she purposely did not list information about her drug use on the 2005 QNSP, which according to the Individual, she completed during the “peak” of her drug use. Furthermore, the Individual was aware when she completed her 2007 QNSP that her answers on the form were incomplete. Her explanation that she knew she would be questioned by the LSO after listing some drug use and would therefore be able to explain or expound on her answers does not change the fact that she knew she omitted information when she submitted the form.

There are, however, some factors in the Individual’s favor concerning the Criterion F concern. The LSO did not know of her history of drug use until the Individual voluntarily reported her drug use on the 2007 QNSP. This demonstrates a growing awareness on the part of the Individual of the importance of being truthful with the DOE and lends credence to her assertion that, as she resolved her issues concerning her past drug use, she was ready to stop hiding her drug history. Further, the Individual fully acknowledges and accepts responsibility for the falsifications. Also, based on the record, it appears that the only instances of dishonesty by the Individual pertain to her drug problem, which she asserts is now resolved. Finally, each of the Individual’s witnesses believed her to be a generally honest and trustworthy person. These are



all positive factors. However, despite these factors, the DOE has known about the Individual's falsifications and omissions on the QNSPs, which took place over a period of eight years and on three different forms, for a relatively short time – about one year as of the date of the hearing.

Our previous cases have stated that a subsequent pattern of responsible behavior is of vital importance to mitigating security concerns arising from irresponsible behavior. *See Personnel Security Hearing*, Case No. VSO-0499 (2002). In most cases in which Hearing Officers have concluded that doubts about an individual's judgment and reliability raised by evidence of falsification have been resolved, a substantial period of time has passed since the falsification. In these cases, the time period has allowed individuals to establish a pattern of responsible behavior. In those cases where an individual was unable to establish a sustained period of responsible behavior, Hearing Officers have generally determined that the individual was not eligible to hold an access authorization. *See Personnel Security Hearing*, Case No. VSO-0448 (2001) (11 months not sufficient to mitigate four year period of deception); *Personnel Security Hearing*, Case No. VSO-0327 (2000) (less than one year of truthfulness insufficient to overcome long history of misstating professional credentials).

In the present case, the Individual has not yet established a significant pattern of responsible behavior. Therefore, based on the recency of the DOE's knowledge of the falsifications and the short amount of time the Individual has had to demonstrate a subsequent pattern of responsible behavior, I cannot find that the security concerns associated with her falsifications have been mitigated. Accordingly, the security concerns set forth in the Notification Letter under Criterion F regarding the Individual's omissions on her 1999 and 2005 QNSPs and her incomplete answers on her 2007 QNSP remain unresolved.

## **B. Criteria H and K – Illegal Drug Use**

It is beyond dispute that use of illegal drugs raises security concerns under Criterion K. *See* *Adjudicative Guidelines*, Guideline H, ¶ 24 ("Use of an illegal drug ... can raise questions about an individual's reliability and trustworthiness, both because it may impair judgment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations."); *see also Personnel Security Hearing*, Case No. VSO-0113 (1995) ("The drug user puts his own judgment above the requirements of the laws, by picking and choosing which laws he will obey or not obey. It is further the concern of the DOE that the drug abuser might pick and choose which DOE security regulations he will obey or not obey with respect to protection of classified information.").

In this case, the Individual has failed to mitigate the security concerns. The Individual readily acknowledged her extensive history of illegal drug use, the worst of which she stated occurred from 2005 to 2006. The Individual's friends testified that they did not believe she currently uses any illegal substances. In addition, the Individual's supervisor noted that her work performance was good and the Individual did not appear to have any ongoing problems that interfered with her work. Further, the DOE psychiatrist did not contest the Individual's assertions that she no longer uses any illegal substances and stated that the Individual's risk of relapse regarding her drug use is low.

Despite these factors, there is simply insufficient information to support the Individual's statements on this issue and, therefore, mitigate the security concerns. The Individual never sought out treatment for her drug abuse. While it is possible that she resolved the problem on her own, a record of treatment could have helped corroborate her assertion that she successfully addressed her drug use problem. Further, there is no witness testimony to corroborate the Individual's statements regarding her history of illegal drug use. While her friends testified that the Individual does not use illegal drugs, they were not well-informed on this issue and, therefore, I must accord little weight to their testimony in this regard. Though the Individual's statement that she withdrew from her friends as her drug use increased is plausible, it does not resolve the concerns raised by the lack of corroboration on this issue. When the Individual's drug use was at its peak, between 2005 and 2006, none of her friends or colleagues knew about it. Therefore, if she were still using drugs it is possible that her friends, including those who testified at the hearing, would not be aware of it. Finally, although the DOE psychiatrist stated that the Individual's substance abuse was in remission, he acknowledged that he had only her word that she no longer uses illegal drugs and no other evidence to corroborate her statements to that effect. Given these factors, there is simply insufficient information in the record to resolve the security concerns raised by the Individual's history of illegal drug use. *See, e.g. Personnel Security Hearing, Case No. VSO-0481 (2001).*

### **C. Criteria H and J – Alcohol Use**

The derogatory information concerning Criteria H and J centers on the Individual's use of alcohol, the DOE psychiatrist's diagnosis that the Individual suffer from Alcohol Abuse, and the psychiatrist's opinion that this is a disorder which causes or may cause a significant defect in judgment or reliability. Given the DOE psychiatrist's diagnosis that the Individual suffers from Alcohol Abuse, the LSO had sufficient grounds to invoke Criteria H and J.

Based on the record in this case, I find that the Individual has not demonstrated sufficient evidence to adequately mitigate the concerns raised by her use of alcohol. The Individual's principal argument during the hearing was that, although she may have abused alcohol in the past, she has significantly reduced her alcohol consumption and does not currently have a problem with alcohol. In that regard, she presented the testimony of her friends to corroborate her assertion that she only drinks in social situations and does not drink beyond the norm. Her supervisor also stated that he was unaware of the Individual having any work-related problems caused by alcohol consumption.

While it is a positive factor that the Individual has reduced her alcohol consumption, her continued alcohol use remains of concern. The Individual stated at the hearing that as her drug use waned, alcohol took its place as her method of coping with personal problems. Although she is currently working with her counselor on learning new coping and impulse-control skills and treating her ADHD, she has been seeing her counselor for a very short time. Beyond the recent counseling, there is little evidence that the Individual has addressed the underlying issues which caused her to drink excessively in the first place. In this regard, I was persuaded by the DOE psychiatrist that the Individual remains vulnerable to reverting to alcohol as a method of coping with stress or other problems. The Individual has not sought out any treatment for her alcohol abuse or established any period of abstinence from alcohol. Accordingly, I cannot conclude that the Individual has resolved the security concerns raised by her use of alcohol.

**D. Criterion L – Unusual Conduct**

Criterion L concerns refer to conduct tending to show that the Individual was “not honest, reliable, or trustworthy, or which furnishes reason to believe that the individual may be subject to pressure, coercion, exploitation, or duress which may cause the individual to act contrary to the best interests of the national security.” 10 C.F.R. § 710.8(l). Each of the security concerns listed in the Notification Letter under Criterion L is tied to the concerns listed above under Criteria F, H, J, and K. Because I have found that the Individual has not mitigated the concerns listed above, the related Criterion L concerns also remain unresolved.

**V. CONCLUSION**

Upon consideration of the record in this case, I find that there was evidence that raised doubts regarding the Individual’s eligibility for a security clearance under Criteria F, H, J, K and L. I also find that there is insufficient evidence in the record to fully resolve those doubts and, therefore, the security concerns have not been adequately mitigated. Therefore, I cannot conclude that granting the Individual an access authorization “would not endanger the common defense and security and would be clearly consistent with the national interest.” 10 C.F.R. § 710.7(a). Accordingly, I find that the Individual’s request for an access authorization should not be granted at this time.

Diane DeMoura  
Hearing Officer  
Office of Hearings and Appeals

Date: December 4, 2008